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E-Filed on October 29, 2009

7 **UNITED STATES BANKRUPTCY COURT**

8 **DISTRICT OF NEVADA**

9 In re:) Chapter 13
10) Case No. 07-16494-bam
11 **TOMMY JONES**)
12 **NANCY JONES**)
13 Debtor(s).) DATE: 11/10/09
14) TIME: 1:30 p.m.

15 **OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY**

16 COMES NOW, the Debtors, **TOMMY JONES** and **NANCY JONES**, by and through
17 their attorneys, **NARRAH F. NEWARK** of **NEWARK & NEWARK LAW FIRM**, and respect-
18 fully request this Court to deny the MOTION FOR RELIEF FROM THE AUTOMATIC STAY
19 filed by **WELLS FARGO BANK NATIONAL ASSOCIATION**, by and through its attorneys,
20 **GREGORY L. WILDE** of **WILDE & ASSOCIATES** and **TIFFANY & BOSCO**.

21 **POINTS AND AUTHORITIES**

22 11 USC Section 362 (d) (1) states that the Court may terminate, modify or condition
23 stay

24 "for cause, including the lack of adequate protection of an
25 interest in property of such party in interest;--"

26 11 USC Section 362 (d) (2) the Court may terminate, modify or condition a stay

27 "with respect to a stay of an act against property under
28 subsection (a) of this section, if-

- 29 (A) the debtor does not have an equity in such
30 property AND
- 31 (B) such property is not necessary to an effective
32 reorganization

1 **STATEMENT OF FACTS**

2 Debtors' property has liens of approximately \$268,879.14 for the property located
3 at 4774 El Canasta Way, Las Vegas, NV 89121, and the home is necessary for an
4 effective reorganization. Debtors believe that they may have minimal equity in the
5 property.

6 11 USC Section 362 (d) (1) may apply as:

7 1. Debtors acknowledge that if they are late on the post petition mortgage
8 payments, they will need some time to acquire the necessary funds to cure all post-petition
9 arrearages.

10 2. Debtors' intention is to stay current on future post-petition mortgage
11 payments.

12 THEREFORE, Debtors request that the motion filed be denied under 11 USC
13 Section (d) (1) or (2), and that any action on creditor's behalf be stayed for an adequate
14 amount of time to allow Debtors to become current on the post petition mortgage
15 arrearages, if necessary, and/or to Stipulate to an Order Re Adequate Protection.

16 Respectfully submitted:

17 NEWARK & NEWARK

18 By: /s/ NARRAH F. NEWARK
19 NARRAH F. NEWARK, ESQ.
NB#008201
20 Attorney for Debtor(s)

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**CERTIFICATE OF MAILING OF OPPOSITION TO MOTION
FOR RELIEF FROM AUTOMATIC STAY**

I hereby certify that on October 29, 2009, I faxed and mailed a true and correct copy by facsimile and by first class mail, postage prepaid, to the below named the
OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY:

WF Bank
c/o Greg Wilde, Esq.
Wilde & Associates
208 S. Jones
Las Vegas, NV 89107
VIA FACSIMILE & ECF

Kathleen Leavitt, Trustee
201 Las Vegas Blvd., S #200
Las Vegas, NV 89101
VIA ECF

Tom and Nancy Jones
4774 El Canasta Way
Las Vegas, NV 89121

/s/ Betsy L. Smith
An employee of NEWARK & NEWARK LAW FIRM

** SECTION 362 INFORMATION SHEET **

Nancy Jones and Tommy Jones
DEBTOR(S)

Chapter 13

Case No.: 07-16494-BAM

Wells Fargo Bank National Association, as Trustee under Pooling and Servicing Agreement dated as of August 1, 2005 Morgan Stanley ABS Capital I Inc. Trust 2005-HE4 Mortgage Pass-Through Certificates, Series 2005 HE4

MOVANT

PROPERTY INVOLVED IN THIS MOTION: 4774 El Canasta Way, Las Vegas AZ 89121

NOTICE SERVED ON: Debtor(s) ; Debtor (s) Counsel ; Trustee

DATE OF SERVICE: _____

MOVING PARTY'S CONTENTIONS:**The EXTENT and PRIORITY of LIENS:**

1st Wells Fargo Bank National Association, as Trustee under Pooling and Servicing Agreement dated as of August 1, 2005 Morgan Stanley ABS Capital I Inc. Trust 2005-HE4 Mortgage Pass-Through Certificates, Series 2005 HE4
(PB \$212,563.14)

2nd Countrywide Home Lending
(PB \$55,816.00)

Taxes Clark County Treasurer
(PB \$500.00)

Total Encumbrances: \$

APPRAISAL or OPINION as to VALUE:
"Per attached Schedule "A" \$260,000.00

**TERMS OF MOVANT'S CONTRACT
WITH THE DEBTOR**

Amount of Note: \$220,500.00

Interest Rate: 8.625

Duration: 30 Year

Payment Per Month: \$ 1,709.72

Date of Default: June 1, 2009

Amount of Arrearages: \$9,790.56

SPECIAL CIRCUMSTANCES: I, Gregory L. Wilde, hereby certify that an attempt has been made to confer with debtor(s) counsel, or with debtor(s) and that more than two (2) business days have expired, and that after sincere effort to do so, counsel has been unable to resolve this matter without court action.

SUBMITTED BY: _____

SIGNATURE: _____

DEBTOR'S CONTENTIONS:**The EXTENT and PRIORITY of LIENS:**

1st _____

2nd _____

Total Encumbrances: \$ _____

APPRAISAL or OPINION as to VALUE:**OFFER OF "ADEQUATE****PROTECTION" FOR MOVANT:****SPECIAL CIRCUMSTANCES:**

SUBMITTED BY: _____

SIGNATURE: _____

Exhibit "B"